IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Rikin S. Patel	§	Art Unit:	2892
		§		
Serial No.:	10/729,607	§		
		§	Examiner:	Glenford J. Madamba
Filed:	December 5, 2003	§		
		§		
For:	System and Method for Fault	§	Atty. Dkt. No.:	200901531-1
	Management in a Service-	§		(HPC.0900US)
	Oriented Architecture			

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

The following sets forth Appellant's reply to the Examiner's Answer dated June 4, 2009.

A.   Improper New Ground of Rejection

The Examiner has improperly applied a new reference (Russell, U.S. Patent Publication

No.2004/0039964) to support the final rejection of the claims under 35 U.S.C. § 103 over Hsu

and Cantania raised in the Office Action dated May 16, 2008.

As specifically stated in the M.P.E.P.:

> A new prior art reference **applied <u>or</u> cited** for the first time in an examiner's
> answer generally will constitute **a <u>new ground of rejection</u>**. If the citation of a
> new prior art reference is necessary to support a rejection, **it <u>must</u> be included in
> the statement of rejection, which would be considered to introduce a <u>new
> ground of rejection</u>**. Even if the prior art reference is cited to **support the
> rejection in a minor capacity, it should be positively included in the
> statement of rejection.**

M.P.E.P. § 1207.03 (8th ed., Rev. 7), at 1200-37 (emphasis added).

Russell was discussed at some length on pages 21, 22, and 32 of the Examiner's

Answer. Specifically, the Examiner cited the discussion in Russell regarding serializing of a

JavaBean message object, which was not an issue that was raised in the final rejection. The

Examiner argued that Russell discloses "the well-known feature of converting or 'translating'

request/response messages from a 'web services' format to a 'non-web services' format—and

vice versa—through 'serialization'/'deserialization'…." Examiner's Answer at 21. Arguments

regarding converting or translating messages from a web services format to a non-web services

format through serialization or deserialization were never mentioned in the final rejection.

In fact, the references Hsu and Cantania relied upon by the Examiner do not provide any

teaching or hint of using serialization or deserialization.

Therefore, it is respectfully submitted that the Examiner's Answer raised a new ground of

rejection without properly designating such as a new ground of rejection.

The M.P.E.P. states that a new ground of rejection **must** be:

(A)approved by a Technology Center (TC) Director or designee; and

(B)prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer.

Id. at 1200-35. Neither requirement was satisfied in the Examiner's Answer.

A Petition Under 37 C.F.R. § 1.181(a) is submitted concurrently herewith to challenge the improper raising of a new ground of rejection in the Examiner's Answer.

B.   Reply to Examiner's Answer Regarding the Rejection of Claim 45 Over Hsu and Cantania.

In the Appeal Brief, Appellant argued that the references Hsu and Cantania fail to disclose at least the following elements of independent claim 45:

a system interface operable to receive a service request in a web services format, **the system interface further operable to translate the service request into a non-web service format**.

As noted in the Appeal Brief, the Examiner conceded that Hsu fails to disclose "the system interface further operable to translate the service request [in a web services format] into a non-web service format." However, the Examiner relied upon Cantania as purportedly disclosing this feature of claim 45, and specifically cited the discussion of BPEL (Business Processes Execution Language) in ¶¶ [0068]-[0070] of Cantania.

The Examiner also cited various discussions from the Specification of the present application as supporting a broad definition of "non-web service format." Page 18 of the Examiner's Answer argued that translating a service request into a "non-web service format" can be interpreted to mean translating from a WSDL language/format to "languages other than *web service* languages" such as a system or business "proprietary language or protocol," or "any other computer-readable language or protocol that can be used to fulfill the request," other than

the WSDL language examples including HTTP, RPC, JMS, etc. Examiner's Answer at 18 (emphasis in original). The Examiner's purported support for this broad definition was ¶ [0027] of the Specification, which notes that a web services module is operable to translate any incoming service request into a language or protocol necessary to fulfill the requests according to the specifications of system architecture 302. However, this passage of the Specification does **not** define "non-web service format"—more specifically, this passage of the Specification does **not** define "non-web service format" to be as broad as suggested by the Examiner. There is nothing in the Specification that supports a broad definition of "non-web service format" as adopted by the Examiner.

The Response to Argument section of the Examiner's Answer states that the use of BPEL in Cantania supports the Examiner's position that Cantania discloses the "translating" element of claim 45. Paragraphs [0068]-[0070] of Cantania refer to an auction manager 500 and companies C1-C4 that run RFQ processes 510 that are implemented in BPEL. Paragraph [0070] notes that BPEL is an XML-based language, and that a developer formally describes a business process that will take place across the web in such a way that any cooperating entity can perform one or more steps in the process the same way. Paragraph [0070] of Cantania also notes that a BPEL program describes a business protocol that formalizes the pieces of information in a product order, and the exceptions that may have to be handled.

As further discussed in ¶ [0071] of Cantania, the auction manager 500 monitors the RFQ processes 510. Also, vendor services provide various interfaces, including an RFQ process interface 522. Cantania, ¶ [0071]. Companies C2-C4 provide the auction manager 500 with a URI pointing to the interface descriptions for the vendor services. *Id.*, ¶ [0071]. Cantania also notes that the RFQ process interface 522 can be an extension to conversation interfaces 520, and

that the RFQ process interface 522 can therefore use attributes, operations, status values, and notifications defined in conversation interfaces 520. *Id.*

Thus, it appears that the auction manager 500 and the various RFQ processes at companies C1-C4 communicate through the defined interfaces associated with the various services at companies C1-C4. Even though the communication occur over the **web**, it is important to note that each of the RFQ processes and the auction manager 500 employ BPEL— thus, **no translation** between a service request in web services format into a non-web service format is performed in Cantania. In fact, any communication over the web would merely encapsulate the RFQ related messages (in BPEL) in messages sent over the web— encapsulation/decapsulation of messages is **not** the same as translating, as would be understood by a person of ordinary skill in the art.

In other words, all that is occurring is that the various BPEL entities of Cantania would exchange BPEL messages with each other—the fact that such BPEL messages may be encapsulated as payload in other messages over the web does not support the Examiner's contention that Cantania discloses "the system interface further operable to translate the service request [in a web services format] into a non-web service format."

The Examiner further argued that Russell supports the final rejection. Russell refers to using serialization to serialize a JavaBean object to a flattened data structure. Russell, ¶ [0040]. This teaching of Russell has nothing to do with the teachings of Hsu and Cantania, and clearly do not provide any hint of the claimed subject matter. There is no hint given in Cantania that its BPEL messages would be serialized—in fact, doing so would be completely unnecessary and wasteful of resources since the auction manager 500 and RFQ processes of Cantania all support BPEL and therefore would understand BPEL messages exchanged with each other.

The Examiner further cited to ¶¶ [0019]-[0021] of the present Specification as somehow disclosing the rejection. Examiner's Answer at 22. Specifically, the Examiner pointed to the discussion in this passage relating to a "service consumer 210 [requesting] a price quote on a consumer item" as somehow being similar to Cantania. Although Cantania and ¶ [0021] of the present Specification both use the term "quote," that similarity does not support the Examiner's erroneous contention that Cantania discloses "the system interface further operable to translate the service request [in a web services format] into a non-web service format." The objective evidence of record points to the contrary, that no translation of the BPEL messages in Cantania is performed.

The Examiner's reliance on ¶ [0056] of Cantania (see Examiner's Answer at 23) also does not support the rejection. Paragraph [0056] of Cantania refers to an RPC handler 118 that maps messages to native programming types. However, there is no hint that such RPC handlers are used to translate between BPEL messages and messages of a non-web service format.

In view of the foregoing and the arguments presented in the Appeal Brief, it is clear that the obviousness rejection of claim 45 over Hsu and Cantania is in error.

Reversal of the final rejection of the above claim is respectfully requested.

CONCLUSION

In view of the foregoing and the Appeal Brief, reversal of all final rejections and allowance of all pending claims is respectfully requested.

Respectfully submitted,

Date: <u>August 3, 2009</u>   <u>   /Dan C. Hu/   </u>

Dan C. Hu
Registration No. 40,025
TROP, PRUNER & HU, P.C.
1616 South Voss Road, Suite 750
Houston, TX 77057-2631
Telephone: (713) 468-8880
Facsimile: (713) 468-8883